



**U. S. Department of Justice**

*United States Attorney  
Northern District of Iowa*

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April 27, 2016

The Honorable Jon S. Scoles  
Chief Magistrate Judge  
United States Courthouse  
111 7<sup>th</sup> Ave SE  
Cedar Rapids, IA 52401

Re: *United States v. Reginald Darnell Shaw, Jr.*, No. 16-CR-1011-LRR

Dear Judge Scoles:

I am writing in regard to the Rule 11 hearing scheduled to be held at 2:00 p.m. on April 28, 2016. The attorneys appearing at the hearing will be David Nadler and the undersigned.

In Count 6 of the Superseding Indictment, defendant is charged with Prohibited Person in Possession of a Firearm, in violation of 18 U.S.C. § 922(g)(3) and (9). The government understands defendant intends to plead guilty to Count 6. There are no additional counts charged against defendant in the Superseding Indictment.

The parties have not entered into a plea agreement.

**STATUTE**

Title 18, United States Code, Section 922(g)(3) and (9) provides, in pertinent part:

It shall be unlawful for any person – . . . (3) who is an unlawful user of . . . any controlled substance (as defined in the section 102 of the Controlled Substances Act) [or] (9) who has been convicted in any court of a misdemeanor crime of violence . . . [to] possess in or affecting

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commerce, any firearm . . . ; or to receive any firearm . . . which has been shipped or transported in interstate or foreign commerce.

### **ELEMENTS OF THE OFFENSE, INCLUDING SENTENCING FACTORS**

The crime of being a Prohibited Person in Possession of a Firearm, as charged in this case, has three elements, which are:

*One*, from about December 1, 2015, through about December 5, 2015, in the Northern District of Iowa, defendant knowingly possessed a firearm, namely, a Beemiller Hi Point C-9 9mm pistol, bearing serial number P1758713 (“the firearm”);

*Two*, the firearm was transported across a state line at some time before defendant possessed the firearms; and,

*Three*, at the time defendant possessed the firearms from about December 1, 2015, through about December 5, 2015, defendant was an unlawful user of marijuana, a Schedule I controlled substance as defined in 21 U.S.C. § 802, and previously had been convicted of a misdemeanor crime of domestic violence, namely, in the State of Wisconsin, Circuit Court, Dane County, of one count of Class A Misdemeanor Battery, a violation of Wisconsin Statute 940.19(1) [968.075(1)(a) Domestic Abuse].

### **MAXIMUM AND MINIMUM PENALTIES**

Count 6 of the Superseding Indictment is punishable by the following maximum penalties: (1) not more than 10 years’ imprisonment without the possibility of parole; (2) a fine of not more than \$250,000; (3) a mandatory special assessment of \$100; and (4) a term of supervised release of not more than 3 years. If the court finds defendant has three previous convictions for a violent felony or a serious drug offense, or both, committed on occasions different from one another, then pursuant to 18 U.S.C. § 924(e)(1), Count 6 is punishable by a mandatory minimum sentence of 15 years’ imprisonment without the possibility of parole and the following maximum penalties: (1) not more than life imprisonment without the possibility of parole; (2) a fine of not more than \$250,000; (3) a mandatory special assessment of \$100; and (4) a term of supervised release of not more than 5 years. At the present time, the government does not possess sufficient evidence to demonstrate that defendant would be subject to the enhanced sentencing provisions of 18 U.S.C. § 924(e)(1).

### **OTHER CONSEQUENCES OF THE PLEA**

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As a felon, defendant will lose his right to vote, to serve on a jury, to hold public office, and to possess a firearm and ammunition.

**PLEA AGREEMENT/ FACTUAL BASIS FOR THE PLEA**

From about December 1, 2015, through about December 5, 2015, in the Northern District of Iowa, defendant knowingly possessed a firearm, namely, a Beemiller Hi Point C-9 9mm pistol, bearing serial number P1758713. Defendant had placed the firearm under his seat in a car he was driving on December 5, 2015.

The firearm was manufactured outside the State of Iowa before December 1, 2015. Therefore, prior to December 1, 2015, the firearm travelled in interstate commerce.

On May 27, 2014, defendant was adjudged guilty in the State of Wisconsin, Circuit Court, Dane County, of one count of Class A Misdemeanor Battery, a violation of Wisconsin Statute 940.19(1) [968.075(1)(a) Domestic Abuse]. Therefore, defendant had been convicted of a misdemeanor crime of domestic violence prior to possessing the firearm.

At the time defendant possessed the firearm from about December 1, 2015, through about December 5, 2015, defendant was an unlawful user of marijuana, a Schedule I controlled substance as defined in 21 U.S.C. § 802.

**DETENTION**

Defendant is in custody.

Sincerely,

KEVIN W. TECHAU  
United States Attorney

By: /s/ Timothy L. Vavricek

TIMOTHY L. VAVRICEK  
Assistant United States Attorney

cc: David Nadler